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United Nations Verification Mission in Guatemala

Report of the Secretary-General

1. This is the fourth report on the verification of compliance with the Peace Agreements signed by the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG), submitted pursuant to the mandate given to the United Nations Verification Mission in Guatemala (MINUGUA) by the General Assembly in resolution 51/198 B of 27 March 1997. This mandate was extended until 31 December 1999 by resolution 53/93 of 7 December 1998, in which the General Assembly repeated its request to keep it fully informed. This report covers the period from 1 August 1998 to 31 August 1999.

I. Introduction

2. The implementation of the commitments entered into by the Government and URNG is governed by the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I), which divides the period 1997-2000 into three phases. The Commission to Follow up the Implementation of the Peace Agreements, which is the body authorized to make the necessary adjustments to the schedule for compliance with the Agreements, established seven priorities for 1999 at the beginning of the year: the commitments to give sustainability to the reconstruction effort undertaken in the wake of hurricane Mitch;* the preparation of various legislative bills related to the constitutional reform adopted by the Congress in October 1998; fiscal matters, rural development, compensation, civic participation and coordination and consultation, including monitoring of the work of the commissions set up under the Peace Agreements. This report reflects these priorities.

3. The period covered by this report coincides with the last year in office of the Government of President Álvaro Arzú, the signatory of most of the Peace Agreements, and with the period leading up to the general elections scheduled for 7 November 1999. In the light of these circumstances, I have deemed it helpful to include not only the verification results for the reporting period but also general conclusions on compliance with each Agreement and recommendations on the outstanding peace agenda, which it will fall to the next Government to implement. This report also gives us an opportunity to express appreciation for the constant support of Member States, the cooperation extended by the agencies, funds and programmes of the United Nations system and the important contribution to the work of MINUGUA made by the World Bank and the International Monetary Fund. I am also grateful to the Inter-American Development Bank for

* Hurricane Mitch, which hit Central America in October 1998, reached Guatemala as a tropical storm.

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the part it has played in the promotion of peace, in particular by convening consultative groups on Guatemala.

II. Implementation of the Peace Agreements

A. Comprehensive Agreement on Human Rights

4. As in the case of earlier reports, the focus here is on aspects of the Comprehensive Agreement (A/48/928-S/1994/448, annex I) which are subject to the Timetable Agreement, including a programme of compensation for and/or assistance to the victims of human rights violations. Pursuant to the Peace Agreements, the compensation policy conducted by the Peace Secretariat (SEPAZ), as established by the National Reconciliation Act of December 1996, must take into consideration the recommendations of the Clarification Commission.

5. On 12 April, SEPAZ instituted the National Programme of Compensation for and/or Assistance to the Victims of Human Rights Violations during the Armed Conflict. In conformity with the Clarification Commission's recommendation, the Programme states that measures of compensation and/or assistance will be implemented through civic, socio-economic and moral reparation programmes and projects whose main goal is to promote national reconciliation. However, the initial definition of the Programme is not in line with other recommendations contained in the section entitled "Reparatory measures" in the Clarification Commission's report, in particular regarding its structure, the development of an active policy of searching for the disappeared and of exhuming remains and the principle of individual reparation. Nevertheless, the definition of the Programme as an evolving and long-term process envisages and allows the adjustment of its components. Thanks to this flexibility, there will be an opportunity for dialogue between the State, the affected communities and the organizations of civil society concerned, especially victims' organizations, which, as the Clarification Commission states, must jointly undertake the task of national reconciliation.

6. Various pilot projects were initiated prior to the formulation of the compensation programme. In the Department of Chimaltenango, especially in San Martín Jilotepeque, and in the Department of Quiché, project execution is about to begin; in the Departments of Huehuetenango and Alta Verapaz, they are at the drafting and screening stages respectively. Most of the projects will be financed with resources allocated to social funds and government ministries in the general State budget.

7. The experience of the pilot projects confirms that compensating the victims of human rights violations is an extremely complex matter for a country emerging from almost four decades of armed conflict, with a toll of approximately 200,000 dead and disappeared persons. It is a difficult task for the State, which is still the object of deep distrust in many of the most seriously affected communities, and it is a particularly sensitive subject in communities in which victims and victimizers live side by side and fear persists. These difficulties are compounded by the task of meeting the very diverse demands — economic, social, judicial and for moral reparation — of the various affected communities. In spite of these difficulties, the State has a clear legal and moral duty towards the victims of the human rights violations perpetrated during the armed conflict. It is therefore important to ensure that the compensation programme extends through the year 2000 and subsequent years as a continuing, long-term effort.

B. Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict

Return and resettlement

8. During 1998 and the first six months of 1999, 5,853 Guatemalan refugees were repatriated. The process of organized return of the Guatemalan refugees in Mexico came to an end on 30 June 1999. In order to make the completion of the process official, the Presidents of Guatemala and Mexico and the United Nations High Commissioner for Refugees met in Mexico City on 29 July. Out of a total of approximately 45,000 Guatemalan refugees recognized by the Office of the United Nations High Commissioner for Refugees (UNHCR), some 43,000 have been repatriated during the past 15 years. The 22,000 Guatemalans still living in Mexico chose to remain there. The speeding up of the repatriation process was the result of active negotiations between the Government of Guatemala and the representatives of the refugees. Almost 30,000 have returned to their country since the signing of the Resettlement Agreement (A/48/954-S/1994/751, annex I) in June 1994.

Land and productive integration

9. Access to land and legal security of tenure are priority issues for the uprooted population and key areas in the

implementation of the Agreement. The population whose return was organized settled in 50 locations, 32 of which are agricultural estates purchased with Government resources. Between June 1998 and October 1999, five estates were bought, also with State financing, for more than 1,100 families from Communities in Resistance. The purchase of land in the Nebaj area and a number of cases of compensation for dual ownership of land are pending. As to the internally displaced population, 1,500 families have applied for assistance with the purchase of 23 estates. As of 31 October 1999, two of those estates had been bought, and the negotiations on six more are at an advanced stage.

10. As required by the Agreement, resettlement must be effected in conditions of dignity and must be sustainable. However, a number of factors continue to imperil the process, including the absence of land management and micro-regional development plans owing to a shortage of resources, legal insecurity with respect to land ownership, poor soil on the agricultural estates available for the first settlements acquired in the former conflict zone, disputes caused by, *inter alia*, ignorance of historic claims, speculation in land prices, differing credit arrangements and a high level of indebtedness.

11. Investments in productive development, for the most part with resources provided by the international community, have been limited, piecemeal and uncoordinated and need to be strengthened to ensure their sustainability. There are substantial delays in the launching of production projects, financed by the international community, whose approach is territorial. There has been some progress, not only in basic infrastructure projects and the conduct of 15 feasibility studies for production projects through the Land Trust Fund of the Technical Commission for the Implementation of the Resettlement Agreement (CTEAR), but also in the execution of 364 UNHCR quick impact projects, although the latter projects still need to be supplemented. CTEAR is currently setting up a production trust fund with joint national and international financing, which will be used to execute five production projects, within a system designed to develop a credit culture among the uprooted population and ensure the financial sustainability of future projects. Private sector participation in the productive diversification of small farmers would facilitate the sustainability of production activities in this sector.

Personal documentation

12. Limited progress has been made in recent years in documentation activities under the Special Temporary Act on Documentation (Decree 75-97), since UNHCR projects and the documentation support programme (PADOC)/ European Union Project provided documentation to 48,274 persons, most of them returnees and demobilized URNG combatants. A large part of the internally displaced population still lack documentation.

13. The Ministry of the Interior has not issued regulations for the implementation of the Special Temporary Act on Documentation, despite repeated requests from CTEAR. This constitutes a breach of the Government's commitment to speed up the documentation process for the uprooted population. CTEAR and some other organizations drafted and published a manual on how to implement the Act, but it has no binding force. The issuance of primary documentation has improved the prospects of registration for the uprooted population; however, the fact that registration only takes place in the main municipalities is a problem for this population, as it is for many rural dwellers.

14. In addition to the progress reported, in general the majority of the commitments in the Timetable are being implemented. However, there are worrisome delays in the implementation of the commitments on productive integration in the context of regional policies of sustainable development and on the strengthening of the system of development councils. The principal challenge here, as in other areas, is to make the transition from emergency assistance to sustainable development and from ad hoc projects to a long-term vision, both regional and national, which emphasizes the territorial approach.

15. In May 1999, CTEAR sent the National Peace Fund (FONAPAZ) a list of 1,222 families of uprooted and demobilized persons who needed to be given priority for emergency housing. In September, the board of FONAPAZ gave official notice that, because of budget cuts, it could not help as promised. Later, at the end of October, FONAPAZ announced that it would authorize funds to meet the needs of 624 families.

16. This being the case, the agenda awaiting the next Government includes the following: (a) concluding the process of purchasing land for the organized internally displaced population; (b) providing the necessary financial resources so that the commitments entered into by the National Institute for Agrarian Reform (INTA) with respect to land legalization and compensation can be transferred to the recently established joint division of the Institute and the Ministry of Agriculture and Livestock; (c) ensuring that a large-scale strategy of production projects is launched and that projects are supported by advisory services and technical training and integrated into a microregional and national development strategy; (d) creating a favourable

environment so that initiatives for providing advisory services on production projects and training for new producers, such as the initiative being carried out by the National Coffee Association, can be extended to other agricultural associations; (e) ensuring the effective access of uprooted women to land ownership, as stipulated in the Land Trust Fund Act; (f) enabling uprooted populations to play a real part in the design, formulation, execution and evaluation of the projects undertaken for their benefit; (g) increasing the State's contribution to the financing of projects in order to ensure their medium-term sustainability, thereby encouraging the international community to contribute; (h) until the Special Documentation Act expires, stepping up the personal documentation programme through the initiative sponsored by CTEAR; (i) maintaining CTEAR until the definitive integration of the uprooted population is provided for in the strategy, plans and budget of the competent governmental bodies, thereby ensuring the necessary transfer of responsibilities. It is also vital to ensure that permanent housing is built for the uprooted population.

C. Clarification Commission

17. On 25 February, I had the privilege of receiving and making public the report of the Clarification Commission entitled "Guatemala: Memory of Silence". In conformity with the terms of the Agreement establishing the Commission (A/48/954-S/1994/751, annex II), I transmitted one copy to each of the signatories, represented by the Peace Secretariat and the General Secretary of URNG. The report was presented at a crowded and emotional ceremonial meeting, which was attended by the President of the Republic and the Minister of Defence. Mr. Christian Tomuschat, the Commission's Coordinator, detailed its main conclusions and recommendations — the fruit of a year and a half of work — on the human rights violations and acts of violence which occurred during the internal armed conflict. In its conclusions, the Commission stated that at least 83 per cent of the victims were Mayan and attributed institutional responsibility for 93 per cent of the violations to agents of the State, principally members of the army. It also concluded that agents of the State, in the context of counterinsurgency operations carried out between 1981 and 1983, committed acts of genocide against groups of the Maya people. The report also contains 84 specific recommendations, the majority of them addressed to the Government, on preserving the memory of the victims, fostering a culture of mutual respect and observance of human rights and strengthening the democratic process. I transmitted the Commission's conclusions and recommendations to the Member States, through a letter to the General Assembly (see A/53/928, annex).

18. The publication of the report had a significant impact on public opinion and gave rise to a multiplicity of responses on the part of various sectors of Guatemalan society. Human rights organizations, a large part of organized civil society and URNG endorsed the report. The legislative branch referred the matter to its Peace Commission. The Government's initial position was that it recognized and appreciated the work done by the Commission, while reiterating that throughout the peace process it had been guided by the spirit and the letter of the respective agreements and was gratified that for the most part the Commission's recommendations signified that the agreements had been complied with. At the same time, the Government expressed its disagreement with the recommendation to establish a commission to purify the armed forces and a foundation to follow up the implementation of the recommendations of the Clarification Commission, on the grounds that their mandates would duplicate the mandates of other entities involved in the peace process. With regard to the foundation, the Government later stated that it was open to other options involving the participation of representatives of organized social sectors. On 9 April, under the auspices of the Counsel for Human Rights, a large group of organizations of civil society came together to form the Multi-institutional Forum for Peace and Harmony, with a view to advancing the implementation of the recommendations and, especially, the establishment of a Foundation for Peace and Harmony. The Follow-up Commission, recognizing the need to bring the mandate of the foundation into line with the structure created by the Peace Agreements, put forward a proposal designed to overcome existing differences and establish as early as possible a mechanism for ensuring the implementation of all the Clarification Commission's recommendations.

19. In the days following the publication of the report, human rights defenders reported being threatened, having their telephones bugged and being followed, to the point that some of them left the country temporarily. Fortunately, the acts of revenge which had been feared, especially after the assassination of Monsignor Gerardi (see A/52/946, para. 10), did not occur. In the initial weeks following the publication of the Commission's report, the Mission stepped up its protection of any Guatemalan public figures who felt vulnerable to acts of violence.

20. In its recommendations, the Clarification Commission requested me to lend my support, through MINUGUA and within the framework of the Mission's mandate, so that its recommendations could be implemented, to appoint the

independent member of the foundation and to establish an international mechanism to provide the foundation with technical support. Since the Commission's report was presented, MINUGUA has helped disseminate it through its 16 regional and subregional offices. It has also used its good offices, both through the Follow-up Commission and by other means, to secure an agreement between the Government and organizations of civil society on setting up the foundation to follow up the Clarification Commission's recommendations. Once the foundation's rules of procedure have been determined, I shall appoint the independent member and establish the international technical support mechanism.

21. National reconciliation forms part of the peace agenda still awaiting implementation in Guatemala. The main elements for such reconciliation are the report of the Clarification Commission, which represents an enormous effort to expose the true dimensions and mechanisms of the violence which occurred during the armed conflict; the National Reconciliation Act, which preserves the obligation of the State to see that justice is done in the case of the most serious crimes committed during the conflict; and the incipient compensation programme, whose mandate is to fulfil the principle of the necessary compensation owed by the State to the victims. However, it will be difficult to achieve genuine reconciliation unless those elements receive the support of society as a whole. Accordingly, it is essential to establish, as the Clarification Commission recommends, a forum made up of State bodies and organizations of civil society to assume jointly the task of reconciliation.

22. As the Follow-up Commission has stated, this forum could give priority to the following actions recommended by the Clarification Commission: (a) promotion of and support for historical research; (b) the search for the disappeared; (c) measures to honour and preserve the memory of the victims; (d) compensation for the victims of violence and human rights violations; (e) the initiation of a policy of exhumation; (f) the promotion of a culture of mutual respect; and (g) the formulation and promotion of a legislative agenda based on the Clarification Commission's report. The proposed forum would also be in charge of disseminating and transmitting the report to the population and to the affected communities. It is vital that both the Government and organizations of civil society adopt a constructive, flexible attitude that will permit the early establishment of the forum as a guarantee for the future of national reconciliation.

D. Agreement on Identity and Rights of Indigenous Peoples

23. Among the priorities for 1999, the Follow-up Commission included the continuation of consultations between the Government and indigenous organizations on the implementation of this Agreement (A/49/882-S/1995/256, annex), as well as monitoring of the implementation of the recommendations of the commissions which have already concluded their work.

Commission for the Official Recognition of Indigenous Languages

24. After the completion of the Commission's work and the submission of its proposal on ways of securing official recognition for the indigenous languages of Guatemala, the Academy of Mayan languages made considerable progress in the formulation of a preliminary bill on indigenous languages to regulate the use of indigenous languages in the life of the nation. Before being submitted to the Congress, the preliminary bill must be approved at the regional and national levels. Since the constitutional reform, which included official recognition of indigenous languages, the Academy has based its preliminary bill on the constitutional obligation of the State to promote indigenous languages.

Commission on Holy Places

25. The Commission suspended its work at the end of 1998 without having achieved a consensus. In my third report (A/53/421 and Corr.1), I pointed out the difficulties involved in dealing with topics deeply linked with people's cultural and spiritual identity. The Follow-up Commission offered its good offices to overcome the differences between representatives of the Government and spiritual leaders and entered into consultations with both parties to establish points of agreement and to resume the discussion which would allow a system to be defined guaranteeing access to, and the conservation and preservation of, holy places.

Joint Commission on Reform and Participation

26. This Commission has the important mandate of defining how indigenous peoples are to participate and be represented in a modern, democratic, decentralized and multicultural State. It has not, however, managed to develop a shared vision of this new relationship between the State and indigenous peoples. This has given rise to difficulties in the discussions, in particular, concerning legal instruments such as the Municipal Code and the Development Councils Act. It is to be hoped that the Government and indigenous

organizations will reach a consensus on both instruments before the end of the year.

Joint Commission on Land Rights

27. This Commission, with the support of the Follow-up Commission, reached agreement on a preliminary bill establishing the Land Trust Fund, which was approved by the Congress on 13 May 1999. After an extensive period of negotiations, the new Act established the principal mechanism for facilitating access to land ownership for peasants who own no land or insufficient land. Indigenous and peasant organizations were convened, in separate assemblies, to elect representatives to fill two seats on the Board of the Fund. In addition, it is hoped that the Commission will conclude discussions on the preliminary land registry bill before the end of the year.

Office for the Defence of Indigenous Women's Rights

28. After a prolonged process of negotiation between SEPAZ and the Permanent National Commission on Indigenous Women's Rights of the Coordinating Office of Organizations of the Maya People of Guatemala (COPMAGUA), the Office for the Defence of Indigenous Women's Rights was established within the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH). The structure of the Office consists of the Ombudsman for Indigenous Women's Rights, regional delegates, a coordinating board on which indigenous women's organizations are represented, a consultative council composed of members of the linguistic communities and a governmental support commission composed of representatives of various ministries. On 20 August, Juana Catinac Xum de Coyoy was appointed the first Ombudsman. The Office will have administrative, technical and financial management capacities and the power to promote and develop, together with governmental entities, proposals for public policy and plans and programmes for the prevention of, protection against and eradication of all forms of violence and discrimination against indigenous women. It will also offer legal advice and social services in its central and regional offices. The culmination of the long process of creating this institution is encouraging, since it is one of the few tangible results of the implementation of the Agreement. The Mission will pay special attention to ensuring that the necessary resources are allocated to enable it to become operational and viable with effect from 1999.

Radio frequencies

29. The consultations between the Government and COPMAGUA on the commitment to make radio frequencies available for indigenous projects have not made any progress. The Government has proposed making five amplitude modulation (AM) frequencies available for 15 years to a committee of organizations of civil society in which indigenous peoples are represented. That proposal is being negotiated. At the same time, the continuation of the public auction of radio frequencies is still giving rise to discontent and frustration in indigenous organizations, which have no resources with which to buy them and are therefore being deprived of a fundamental medium of expression, particularly in rural areas.

30. In the Timetable Agreement, only 10 commitments under the Agreement on Identity and Rights of Indigenous Peoples were scheduled. Fulfilment of the majority of the commitments made under this Agreement was entrusted to commissions in which indigenous peoples' representatives participate, according to the principle set out in the preamble, which states "that all matters of direct interest to the indigenous peoples need to be dealt with by and with them and that the present Agreement seeks to create, expand and strengthen the structures, conditions, opportunities and guarantees regarding participation of the indigenous peoples". In this connection, the process of implementing the Agreement opened up new opportunities for direct consultation and coordination with State institutions and is helping to raise awareness of the issue of multiculturalism. This issue has spread beyond the confines of the commissions and has been taken up by political parties, the Congress, professional and trade union associations, non-governmental organizations and regional consultation and coordination bodies. At the same time, the process has helped to strengthen indigenous organizations and give them a more active role.

31. These advances do not conceal the fact that the practical results of the work done within the commissions established under the Agreement have been limited and that there is still a long way to go towards a national consensus on the multicultural character of the Guatemalan nation and its institutional implications. Although the question on the rights of indigenous peoples was the one which gained the largest number of affirmative votes at the national level, the outcome of the referendum (see para. 80) on the constitutional reform revealed marked differences among the various areas of the country, depending on whether or not the indigenous population was in the majority. Moreover, the campaign leading up to the referendum highlighted the persistence of strong racist prejudices among certain sectors

of the population. All this would seem to indicate that there are real risks of increased polarization of Guatemalan society in inter-ethnic relations. This makes it even more necessary to have a long-term policy on multiculturalism, rather than suggesting that the State should pay less attention to the subject.

32. The implementation of the Agreement on Identity and Rights of Indigenous Peoples is an appropriate platform for this policy. In this connection, it is important, and necessary, to ensure that the next elected authorities, especially the Government and the Congress, continue with the consultation and coordination mechanisms initiated in 1997 and follow up the work already done by the joint commissions on land, official recognition of indigenous languages and educational reform. It is also important to keep the issue of the preservation of holy places on the agenda and to take up again the generic topic of modalities for the participation of indigenous peoples at all levels.

33. One of the immediate measures should be the incorporation of a greater number of indigenous people in the civil service and the Government. In my third report I indicated that the presence of more indigenous people in the National Civil Police (PNC) and among those employed in the justice system and other branches of the public administration would be of great importance in advancing the transformation of relations between the State and indigenous peoples and also between indigenous and non-indigenous people. This assessment remains valid. The new Government has an opportunity to reverse what has been a characteristic of Guatemalan society: the exclusion of indigenous peoples from high-level political posts. That would not only benefit the Government, but also offer other institutions and sectors of society an example of the political will to adapt the State to the multi-ethnic, multicultural and multilingual character of the nation.

E. Agreement on Social and Economic Aspects and the Agrarian Situation

34. Since the middle of 1998, the Follow-up Commission has given priority to the implementation of the commitments relating to fiscal and rural problems because they are central to the Peace Agreements. In fact, increasing the tax burden is a prerequisite for the satisfactory fulfilment by the State of all its constitutional responsibilities. For its part, rural development is a key factor if the fight against poverty and extreme poverty is to be successful. This was confirmed in the latest national human development report, which was devoted to the subject of rural development. In 1999, the Commission also placed emphasis on commitments which could ensure the sustainability of the reconstruction activities undertaken in the wake of hurricane Mitch. In the context of verification of this Agreement (A/50/956, annex), the report emphasizes these aspects.

Fiscal policy

35. On 16 October 1998, faced with the impossibility of achieving the 12 per cent tax burden provided for in the Agreements, the Follow-up Commission rescheduled that target to 2002. To achieve it, the Government decided to adopt a minimum programme of short-term actions which would make it possible to maintain the trend of a gradual increase in the tax burden in 1999 and to promote, together with the Commission, an extensive process of national consultation to define a long-term fiscal policy that would eliminate uncertainty by establishing clear, efficient and stable rules.

36. As part of the minimum programme of short-term actions, the Congress extended the commercial and agricultural enterprise tax for five years, and the Tax Administration Superintendency engaged foreign trade inspection. However, these firms are not yet in operation and other measures have not been implemented. With regard to the Superintendency, the commitment to bring into operation a special programme targeting big taxpayers to make sure that they meet their tax obligations in full has not yet been implemented. Recent studies show that the Superintendency lacks a global tax control strategy. Although the tax burden in 1999 will show an increase over that for 1998 and will be slightly higher than 9 per cent, the Mission agrees with specialized financial institutions that, in the absence of additional tax measures, the tax burden will decline again in the year 2000 and beyond, thereby preventing an increase in public spending in general and social spending in particular and seriously affecting the sustainability of institutions central to the peace process, such as, for example, the Land Trust Fund.

37. This situation has further heightened the importance of the fiscal pact process, which is responsible not only for achieving the 12-per-cent target in 2002 but also for preventing a decline in tax collection and a setback in the peace process. Some progress has been made in the fiscal pact process. On 19 March, the Fiscal Pact Preparatory Commission was officially established, composed of four Guatemalan citizens of recognized professional ability. The Preparatory Commission has drawn up the agenda for its work and has held meetings with the representatives of various sectors, both nationally and locally, all of which

have expressed support for the Preparatory Commission and the fiscal pact process. Moreover, the executive secretariat of the Preparatory Commission began the technical studies which will provide inputs for the subsequent stages of the process, and some of these studies have been completed. Two of them, on the progressive nature of the tax system and on the regulation of exemptions, correspond to commitments under the Peace Agreements. In view of the seriousness of the tax situation, the Preparatory Commission has undertaken to conclude its agenda before the end of 1999 so that the authorities can take widely agreed measures at the beginning of 2000. The experience of recent years has shown clearly that, in fiscal matters, what is not done during the first year of Government is not done subsequently. Certainly, the current economic and financial difficulties do not offer an ideal framework for the tax effort which the country requires. It is to be hoped, however, that the political parties, which have agreed to support the Preparatory Commission's recommendations, and the country's most influential sectors will recognize that a decision on ending the fiscal stalemate cannot be delayed any longer without serious consequences for social and institutional development and, therefore, for governability. The international community, for its part, is still awaiting tangible measures that reflect a real will to mobilize national resources for development and peace.

Rural development policy

38. The following are among the positive aspects of Government action in the area of rural development: the definition by the Ministry of Agriculture, Livestock and Food of areas for long-term strategic action and of priorities for 1999 based on the key elements of the Peace Agreements; the submission of a document on national agrarian policy which contains some important components for the definition of a rural development strategy; the modernization of the Ministry of Agriculture, Livestock and Food; the adoption by the Congress of the Land Trust Fund Act; the increase in the operations of the Rural Development Bank between 1995 and 1998, introducing greater diversity among those receiving credit, in particular micro-, small and medium-sized enterprises; the considerable increase in public investment in rural areas, which has made it possible to begin to reverse the long-standing trend of giving preferential treatment to urban areas; the beginning of the process of regulating public land; the execution of pilot land registry plans; the expansion of forestry incentives; the continuation of consultations between the Government and indigenous organizations within the Joint Commission on Rights relating to Indigenous Peoples' Land; and the increase in the activities of the Presidential Unit for Legal Assistance and Dispute Settlement in Land Matters (CONTIERRA), which has helped to reduce disputes over agricultural land.

39. At the same time, there are a number of weaknesses and limitations which prompt the following recommendations: (a) the activities and investments of the whole public sector should be included in the rural development strategy and guidelines should be established for international cooperation activities; (b) the multicultural dimension and the special situation of women should be integrated into national agrarian policy; (c) the activities of the various public institutions working in the country side, particularly the social funds, whose investments do not generally form part of integrated rural development strategies, should be coordinated; (d) an agricultural census should be carried out in order to have up-to-date, comprehensive information on the country's rural areas; (e) the mobilization of internal resources should be increased and such resources should continue to be reoriented towards rural areas; (f) credit coverage should be expanded and the territorial and sectoral distribution of the country's financial resources should be improved since, despite the increase in the operations of the Rural Development Bank, official commercial credit continues to be very limited and highly concentrated in the Department of Guatemala City; (g) the Land Trust Fund should be given adequate financing and its land resources increased by incorporating the proceeds from the recovery of illegally settled public land, especially in Petén and the Franja Transversal del Norte; (h) legal norms should be developed to facilitate the award of title to and the administration of land in accordance with the customary law of the communities concerned, as well as the award of title to municipal or public lands which clearly have traditionally been held in common; (i) the commitments relating to the procedures for defining compensation formulas in the case of land disputes and claims in which farmers, peasants and communities living in extreme poverty have been dispossessed for reasons not attributable to them should be implemented; (j) the Joint Commission on Rights relating to Indigenous Peoples' Land should be supported in its discussion of the preliminary land registry bill; and (k) CONTIERRA should be provided with the resources necessary for its proper functioning and regional deployment.

40. The outstanding peace agenda in the area of rural development and the agrarian situation also includes implementation of the commitment relating to the revision and adjustment of the legislation on undeveloped land and the establishment of an agrarian and environmental jurisdiction within the judiciary, which is still in the initial

stage. In the case of the latter commitment, the next Government should support the multisectoral commission which is being organized and incorporated into the discussion issues relating to multiculturalism, biodiversity and management of natural resources, particularly water. For its part, the land registry process has made only limited progress and is extremely weak, owing to its excessive dependence on external resources and the very limited allocation of national funds. In this connection, the Government is urged to devote more public resources to the land registry process in order to ensure its financial sustainability in the medium term and to extend it throughout the country.

41. With regard to the conservation and sustainable use of natural resources, scant progress has been made in the launching of comprehensive land management plans in both urban and rural areas which take into account multiculturalism and indigenous communities' forms of land ownership. This situation is a matter of some concern in view of the fact that a substantial part of the damage caused by hurricane Mitch occurred precisely because of the absence of such plans. It is important therefore to devise land management and planning instruments which will conserve resources and reduce potential damage from natural disasters. The short-term formulation of land management plans is particularly urgent in the environmentally most fragile areas and in the catchment areas most susceptible to impairment.

Health

42. In the health sector, the commitments contained in the Timetable Agreement have been partially fulfilled. In quantitative terms, public spending on health was increased in accordance with the Peace Agreements, and progress has been made in the commitment to allocate a higher percentage of spending to preventive health. As a result of the increased spending, the health infrastructure has been improved and the coverage of health services expanded, especially in rural areas. Average vaccination coverage remained above 80 per cent and progress was made in the purchase of medicines, following the application of open contracting procedures and a consequent reduction in corruption and prices. On the other hand, in qualitative terms, the picture is still somewhat disturbing: infant mortality fell from 51 to 45 per 1,000 live births during the period 1995-1998, a trend which, although positive, is far from fulfilling the commitment to reduce infant mortality, by the year 2000, to 50 per cent of the 1995 rate. Poliomyelitis appears to be under control, with a vaccination coverage of 88 per cent in 1998; however, in the case of measles, vaccination coverage was only 79 per cent in the same year, which leaves open the possibility of an epidemic. As to the commitment to reduce maternal mortality, current data are contradictory and do not permit a firm conclusion to be drawn.

43. Worthy of note are the efforts made by the Ministry of Health to achieve better coordination with the Guatemalan Social Security Institute in terms of the common use of installations and provision of services, which has reduced costs and improved efficiency. The letter of understanding between the two institutions, signed in 1998, is an example of this. However, much remains to be done in the design and joint programming of a national health system.

44. The results achieved are due in large measure to the creation of the Integrated Health Care System (SIAS). In less than two years, SIAS has established a presence, on the basis of 116 agreements, in 20 of the country's 22 departments and is operating with 78 non-governmental organizations and staff of the Ministry, providing services to people with low incomes who in the past had no access to health care. Also worthy of note are the efforts of the Ministry of Health to involve the infrastructure of its second level of care in this system. However, the quality of the services provided by SIAS is somewhat deficient. Its rank-and-file workers frequently lack training and there is a shortage of medicines, equipment and basic supplies in community centres, making it impossible to comply with the standards of care stipulated in SIAS. Accordingly, it is recommended that the Ministry of Health correct the internal deficiencies in its administration of SIAS and that it expand and improve its supervision of the quality of work of those who implement it; this calls for the design of special methodologies for monitoring and quality control of the system.

45. It has been found that, in order to be sustainable in the medium term, SIAS must: (a) consolidate its institutions; (b) learn to do without the voluntary work of community staff, which cannot continue indefinitely; (c) overcome its dependence on cooperation workers from Cuba, whose doctors are working in isolated communities where Guatemalan doctors would be reluctant to work under the same conditions; and (d) improve its agreements with non-governmental organizations in terms of time-frame, payments, monitoring and supervision.

Education

46. In this sector, commitments have been partially fulfilled and results have been mixed. According to the latest official information available, in 1998 the goal of increasing the amount of public spending actually disbursed was achieved. Encouraging progress has been made in the

reduction of illiteracy (from 37 per cent in 1995 to 31.7 per cent in 1998, according to the National Literacy Commission), in educational support programmes and in increasing educational coverage, especially in rural areas. Nevertheless, progress has been hindered by three major factors: (a) the target of access for all those between the ages of 7 and 12 to at least three years of schooling by the year 2000 has not been achieved, and primary-school coverage did not increase between 1994 and 1998; (b) although there was an overall reduction in illiteracy, the rates for the indigenous population remain higher than for the rest of the population; and (c) little progress has been made in fulfilling other commitments, such as the execution of a national programme of civic education; providing out-of-school education and training; training teachers and education administrators; and adapting curricula to the educational reform.

47. The National Programme for Educational Self-Management (PRONADE), with local support and participation, provided for over 175,000 children in 1998, mainly in rural areas, thereby narrowing the traditional gap between urban and rural educational coverage and improving the quality of education. However, education in general suffers from various deficiencies, such as the small number of teachers, which in rural areas results in an average ratio of 49 students per teacher and contributes to the lowering of educational standards and the high drop-out rates.

48. Bilingual education, which is a key to educational effectiveness and quality, is virtually absent in PRONADE and only just beginning in the traditional education system. This deficiency is a result of the lack of government support, reflected in the limited number of bilingual schools, the shortage of bilingual staff, the limited number of bilingual teacher-training schools and the inadequate distribution of bilingual textbooks.

49. Civic education — another dimension of the quality of education, especially in post-conflict societies — is achieving only limited progress and coverage. The civic education programme, which has been very poorly funded (US$ 740,000 in three years), has very few staff and is very short of textbooks; furthermore, the textbooks available do not cover the multicultural and intercultural aspects that are indispensable for civic education in Guatemala. It should be added that there is no budget item for the civic education programme in the draft budget for the year 2000.

Advisory Commission on Educational Reform

50. After the conclusion of the work of the Joint Commission on Educational Reform, described in my third report, the Advisory Commission, which comprises 17 organizations of civil society and the Ministry of Education and Culture, began, through various subcommissions and working groups, the first activities envisaged in the design of the educational reform. Despite difficulties, the forums for discussion and consensus have continued to function; however, the urgency of instituting the educational reform requires greater efforts on the part of all sectors involved, particularly in the area of curriculum reform. The implementation of the reform is a cornerstone for meeting the demands of a multicultural society.

51. The attainment of the target of providing access for all those between the ages of 7 and 12 to at least three years of schooling will have to be rescheduled, and an extraordinary effort will be required, not only in terms of educational coverage but also in terms of quality and infrastructure. Particular attention needs to be given to departments with a greater density of indigenous population and to intercultural bilingual education. In order to achieve respect for cultural differences within a context of national unity, national reconciliation and democratic coexistence, it is essential to implement a comprehensive, nationwide programme of civic education, for which the necessary human and financial resources must be provided.

Housing

52. In this sector, coverage has increased and the commitment to allocate 1.5 per cent of annual tax revenues to housing has been fulfilled. However, the quality of the service provided is very poor. The subsidies provided by the Guatemalan Housing Fund (FOGUAVI) have been utilized almost exclusively by the private sector, whether builders or lot developers, with a serious absence of control over the relationship between quality and price. It has also been noted that many of the houses put up by construction firms, as well as houses built under the *Techo y Piso* programme promoted by FONAPAZ, do not meet the minimum requirements for decent housing. It should be recalled that the Peace Agreements are very specific in this regard: although it is emphasized that social services can be provided through public entities and, where necessary, through semi-public or private entities, the Government undertakes to strengthen the leadership role of the State, developing the regulatory framework for the provision of such services and exercising supervision to ensure full compliance. In addition, FOGUAVI does not promote community participation by non-governmental or cooperative organizations, which would make it possible for people in extreme poverty to take fuller advantage of these subsidies. It has also been found that these programmes are extremely centralized and that

there is no participation by local Governments, the authorities responsible for urban planning. Here again, the Agreements are very clear with regard to the Government's undertaking to "promote and ensure the participation, in accordance with the regulatory framework, of all social and economic sectors that can cooperate in social development, particularly in providing full access to basic services".

53. There is a need to reformulate completely the policy for access to low-income housing, since the current regulatory framework does not include the components established in the Peace Agreements, in particular the commitment to "closely coordinate housing policy with land management policy, especially urban planning and environmental protection policies, to enable poor people to have access to housing with services in hygienic and environmentally sustainable conditions" and the commitment to "apply ... regulations to the production and marketing of building materials and services; update the health and safety regulations applicable to the construction industry and monitor compliance with them; coordinate with municipalities to ensure that construction and monitoring regulations are homogenous, clear and simple, in an effort to ensure good-quality, safe housing".

Post-hurricane Mitch reconstruction and the peace process

54. The Mission welcomes the Government's undertaking to reaffirm the peace agenda as a national priority and to regard it as complementary to and not a substitute for the reconstruction programme. It also acknowledges the speedy response of the authorities to the emergency during the early days and the population's solidarity and spontaneous participation in the rescue effort and in caring for the victims during that period. To deal with the emergency, the Government drew up an agenda for the first 100 days, which was largely implemented and which helped to repair the damage to the economic infrastructure and to solve some of the most pressing social problems in the areas affected, including health, loss of jobs and temporary housing. However, important components of the reconstruction effort have been carried out without respect for the principles and provisions of the Peace Agreements.

55. As regards participation, it has been observed that, once the immediate emergency was over, the implementation of reconstruction activities became over-centralized and the failure to involve regional and municipal forums precluded the participation of organized sectors of the population in the design and planning of those activities. In the case of housing, the relocation and reconstruction programme — provision of lots and housing — for the victims was carried out without considering such factors as coordination between central and local government agencies, land management, urban planning and environmental protection. In addition, the privately developed lots authorized by FOGUAVI are seriously deficient, in both quantitative and qualitative terms, as regards the provision of basic services such as water, drainage, electricity and communal facilities. It has also been observed that the price of individual lots is excessive, given the location, accessibility, size and level of services of the developments. This is basically because FOGUAVI approved the projects without monitoring quality in relation to sales price.

56. The *Techo y Piso* programme promoted by FONAPAZ did not get established on a firm footing. In many cases, the delivery of materials was incomplete and their distribution disorganized, without technical advice or supervision. This situation was due in part to a lack of planning and coordination by FONAPAZ with the local authorities. From a qualitative standpoint, the housing solutions envisaged do not meet the minimum requirements for decent housing. The start of the reconstruction phase related to natural disaster prevention and mitigation affords a valuable opportunity to review and modify the low-income housing policy implemented thus far.

57. With respect to employment, the emergency was not followed by the development of consensual labour relations for dealing with the grave situation. Although, in a number of firms in the department of Izabal, agreements with the unions were arrived at swiftly, in others existing labour conflicts worsened after workers and union leaders lost their jobs despite the existence of judicial rulings on security of employment. Moreover, the decision of the Minister of Labour ordering the collective suspension of labour contracts, without prejudice to their legal status, did not contribute to a more equitable division of reconstruction efforts in the production sector or to fostering a climate more conducive to social harmony.

58. In addition, it is disquieting that as of July 1999 the food-for-work programme put in place by the Ministry of Labour had not covered women workers. It is also a matter of concern that the wage conditions enjoyed by workers prior to hurricane Mitch deteriorated noticeably and that this situation persists a year after the emergency.

Social consultation processes

59. Although the technical and financial capacity of the development councils has been strengthened, they still do not constitute the forums for consultation on policies for

development and land management laid down by the law and the Agreements, since they suffer from problems of inter-institutional coordination and many do not have the participation of the social sectors stipulated by law. The lack of will of some authorities and the distrust or weakness of social organizations militate against full participation. However, there have been welcome attempts to incorporate the structures of the Women's Forum and indigenous organizations and to mobilize non-governmental organizations to support legal reform of the council system. In order to boost participation in the councils, the competent central authorities need to convene a meeting to set up the National Council. With broad social participation in the departmental councils, it will be possible to give effect to the reform of the Executive Branch Act which stipulates, in keeping with the Peace Agreements, that governors shall be appointed at the proposal of the social sectors belonging to the development councils. In order to enhance the standing of the departmental governorship, it is important that the governors elected at the beginning of next year should be elected according to this new procedure.

60. The way in which the Women's Forum process has developed shows the complexity of the country's socio-cultural situation and makes the attainment of a multicultural society one of the major challenges for all sectors of Guatemalan society. In that context, it is encouraging to note the effort made by the linguistic communities and the multisectoral bodies of the Forum to consolidate into a unified national proposal the various alternatives put forward by Guatemalan women with a view to enhancing their status and position. Also noteworthy are the initiative and determination shown by the Government, which, through a number of its agencies, is endeavouring to incorporate the proposals emanating from the Women's Forum process and from the pre-existing equal opportunity plan into a single policy document on equity for women. In this connection, the Mission again emphasizes the importance of having a high-level guiding body to guarantee that such policies become permanent and are institutionalized, and the need for a Government commitment to guarantee their sustainability. Furthermore, the advances made in institutionalizing policies for women will be sustainable only if the discriminatory legal norms currently in effect are amended, a task which has not yet been completed. In particular, national legislation and regulations should be revised in order to eliminate any form of discrimination against women at the different levels of participation and in their access to resources and in order to give effect to the Government's commitments arising from its ratification of the Convention on the Elimination of All Forms of Discrimination against Women.

61. With regard to labour negotiations, mention should be made of the serious incidents which took place in the city of Morales, on 13 October. An organized group of heavily armed individuals, claiming to represent local residents, broke into the offices of the Izabal Banana Workers Union, threatened union leaders that they must give up the Union and their jobs at BANDEGUA, forced them to call off the union mobilization planned for the next day and compelled them, on pain of death, to leave the area with their families. This episode and the murder of trade union leaders during the period under review show that genuine trade union freedom does not exist in Guatemala. Such freedom is essential if the different sides of industry are to develop a negotiating process. Consequently, the authorities are urged to take decisive steps to promote the tripartite forums and consultation mechanisms already being tried out in several regions of the country, as well as to implement a genuine public policy of promoting collective bargaining in its various forms, in the design and execution of which employers and unionized labour will play an active role. This policy should include, as a minimum, culmination of the process of adapting the substantive and procedural legal framework to the requirements of international norms governing collective bargaining and trade union freedom, and the review of State institutions in order to ensure that the planning process throughout the country will include educational, preventive and promotional dimensions, with the necessary budgetary appropriation to make them sustainable.

62. The progress in the political participation of women and indigenous people contrasts with the lack of progress in consultations over new labour relations. Despite advances in the decentralization of the Ministry of Labour, there is a glaring disproportion between the quantitative and qualitative gravity of labour problems and the allocation of human and material resources by the State, as well as the clearly secondary role which these issues play in political decision-making. The process of complying with all the labour commitments, begun in early 1997, has slowed noticeably and there are even some signs of a reversal. In addition, commitments relating to vocational training, increased power to impose penalties and the review of labour legislation relating to women have not been fulfilled.

63. The labour situation described above requires greater efforts to comply with the commitments made and thereby improve labour conditions in the country, both through legal and procedural reforms and through the investigation of compliance with existing labour standards, with special

regard for those relating to the more vulnerable groups, such as women, children and rural workers.

F. Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society

Administration of justice

64. The commitment under this Agreement (A/51/410-S/1996/853, annex) to increase the budget of the judiciary by 50 per cent in relation to 1995 was implemented. Other positive developments include the establishment of the ad hoc commission to follow up the recommendations of the Commission on the Strengthening of the Justice System, and the leading role assumed by this Commission since its inception, particularly during the process of selecting the members of the new Supreme Court of Justice and the Courts of Appeal. The judiciary is continuing to implement its modernization plan; however, it is proceeding slowly and has not had the impact necessary to meet the population's demands for justice. For its part, the Public Prosecutor's Office began to implement its comprehensive restructuring plan and the Public Defender's Office in Criminal Matters became financially autonomous as from 1 January 1999, enabling it to provide better services. Mention should also be made of the establishment of a multisectoral commission on the reform of the prison system to draw up a prison policy which will, *inter alia*, determine the rules, structure and institutional functioning of the system. Lastly, on 27 October the Congress adopted the Act on a Career Judicial Service.

65. Despite the positive elements described, the perception of a crisis in the justice system that is endangering governability continues to grow. The national consensus on the need to promote urgent and significant changes has also grown. To contribute to an understanding of that crisis and to help bring about those changes, the Mission is verifying compliance by State institutions in the justice sector with the provisions of the Peace Agreements; the results of this verification will be published in the Mission's tenth report on human rights.

66. On 13 October, the new members of the Supreme Court of Justice took up office. This was the first change in the Court's membership since the signing of the Agreement on a firm and lasting peace. The process of nominating, selecting and electing the judges involved the participation of organized sectors of society for the first time in the country's history. Various social entities drew up profiles of the ideal judge and developed selection criteria which included professional merit and ethical conduct. The nominating commissions and the Congress published the lists of preliminary candidates and candidates, respectively. A considerable political effort was made in the Congress to reach a consensus on which candidates to elect. The newly appointed Supreme Court pledged to continue and expand on the judicial reform begun by its predecessors.

67. The deployment of the National Civil Police (PNC) was extended to the country's 22 departments, with a force of 17, 399 police officers, 36.53 per cent of whom are new recruits. The size of the force was established on the basis of the crime rates and the total population of each department. However, the percentage of the Force deployed in the department of Petén is low when one considers that department's physical size, the length of its borders and the cultural heritage and natural resources that have to be protected. It is also important to note that indigenous participation remains low, as does the presence of women, who account for barely 6.5 per cent of the total police force. There are only one female deputy superintendent and 28 women officers in the command structure.

68. The deployment of the National Civil Police throughout the national territory is undoubtedly one of the Government's main achievements and a central element of the Peace Agreements. It should be noted, however, that the target set in the Peace Agreements of deploying 20,000 officers by the end of 1999 has still to be met. In addition, there continue to be significant constraints on the infrastructure and equipment of the units that have been deployed. Most installations do not meet the conditions or have the basic services required to house police personnel decently; in particular, the lack of telephone lines and the shortage of communications equipment are seriously limiting the operating capacity of the new police force. Another drawback has been the excessive delay in the procurement of new weapons for the most recent deployments. It is also contradictory that the significant increase in the budget for 1998-1999 has not resulted in the necessary investment in buildings.

69. The slow deployment and weak structure of the Criminal Investigation Service in six of the seven departments in which it has been established are not consistent with the importance which the Agreement attaches to criminal investigation in the development of the new structure of the National Civil Police. With regard to the information service and the nature protection service, the delay in launching the respective specialized training courses is holding up the formation of effective operating structures and, consequently, the strengthening of civilian authority in these areas. Insubordination among members of the Special

Police Forces in April 1999 led to the reorganization of these forces by the Ministry of the Interior and the transfer of their personnel. The first specialized course to replace members of the earlier force, which is restricted to police officers coming from the courses for new recruits, has been verified as satisfactory by the Mission.

70. During the period under review, the Police Academy continued the training of new policy recruits and the retraining of former members of the National Police and the Treasury Guard. It also began the internal promotion courses for junior and senior officers. The participation (in the promotion courses) of police officers from the basic course is a positive development which is making it possible to strengthen and gradually renew the command structures. The decentralization of the selection process proved to be a positive step for facilitating admission to the Academy. Nevertheless, there are still glaring deficiencies in publicizing the application process, especially in indigenous areas, whose organizations and communities should be involved in proposing candidates. There are objective limitations on equality of opportunity in access to the National Civil Police, such as the high cost of attending the Academy, the generally low educational level of indigenous youth and the height requirement. Lastly, mention should be made of the Academy's efforts to train police instructors, whose numbers still fall short of demand. This, together with the instability of the non-police teaching staff, shows the need to review the Academy's personnel policies.

71. It has been observed that some instructors are reluctant to provide human rights training and that the Academy's administration has not taken a firm line on this, showing that there are still sectors whose conception of the role of the police is contrary to the Peace Agreements. This situation is particularly disturbing in the context of an increase in serious human rights violations committed by members of the National Civil Police. In its ninth report on human rights (A/53/853, annex), the Mission stated that there had been no progress in the development and implementation of effective measures to prevent or punish abuses and excesses committed by police officers. The report also noted that while the increase in numbers of the new National Civil Police and the extension of its area of operation made it possible to say that the incidence of violations was relatively low in the new police force, the resurgence of cases of torture, some of them involving members of the new police force, was extremely serious; for that reason, the Mission considered it urgent that steps be taken to eradicate this practice. Regrettably, during the period under review, the number of human rights violations committed by the National Civil Police increased. The Mission therefore reiterates the urgent need for corrective measures, which should include: (a) the application of an institutional policy of combating human rights violations within the National Civil Police; (b) the adoption of internal controls and penalties; and (c) the strengthening of human rights training in the Academy.

72. In assessing developments in the area of public security, it is important to stress that a major legislative agenda, which includes a new Arms and Munitions Act, a new Public Order Act and a Private Security Companies Act, is still pending. It is also important that the next Government should take up the repeatedly postponed commitment to establish an Advisory Council on Security to study and present widely agreed strategies for responding to the major risks confronting the country. The challenges peculiar to a society in transition from war to peace, and developments such as the serious, widespread phenomenon of lynchings and the persistence of "social cleansing", underscore the importance of implementing a comprehensive concept of security which has the support of personalities representing the economic, social and cultural diversity of Guatemala.

Armed forces

73. The restructuring of the armed forces in accordance with the provisions of the Peace Agreements has been carried out from the quantitative standpoint: the size and budget of the armed forces have been reduced. On 23 September 1998, the Mission confirmed that the commitment to reduce the troop strength of the armed forces by 33 per cent had been fulfilled, the verified troop strength of 31,423 being in line with the manning and equipment table. On 30 August 1999, the budget allocated to the armed forces met the target of achieving a 33 per cent reduction in military spending as a proportion of the gross domestic product (GDP) as compared with 1995. The Mission will verify that no budgetary adjustment are made which will result in that target not being met after all.

74. The qualitative restructuring of the armed forces remains to be carried out. This is due, in part, to the delays in the discussion of the constitutional reform, which led to the Follow-up Commission rescheduling the submission of draft legislation such as the amendments to the Act establishing the armed forces and the new law providing for oversight of State intelligence bodies. While the failure to ratify the amendments to the Constitution is an obstacle to this component of the Peace Agreements, the Mission observed a worrisome failure to comply with commitments that are not affected by it, such as the commitments concerning the television frequency allocated to the armed

forces, policies for the procurement of weapons and military equipment, and the operation of the munitions factory. In these cases, the Mission still has not received the necessary documents.

75. With regard to the commitment to "reorganize the deployment of military forces within the national territory, stationing them for purposes of national defence, border patrol and protection of Guatemala's maritime and territorial jurisdiction and airspace", the Mission verified that the Aurora military base in Guatemala City, military unit in Huehuetenango and another in Izabal had been taken out of operation. At the same time, on 1 September 1998, the Maya Task Force was established in the department of Petén and deployed in a command post, two battalion command posts and 14 units, five of which are new (Caribe Salinas, Guayacán, El Zacatal, Km. 107 and Km. 86). Besides performing military functions, these units are responsible for carrying out operations to preserve the cultural heritage and for combating ordinary and organized crime. In addition, a further five new military units have been put into operation in the department of Petén (El Carrizal, Paso del Carmen, Yaloch, Joventé and Yaxhá), as well as one in the department of Alta Verapaz (Chahal) and one in the department of Quiché (Vergel). The increase in military units, especially in the department of Petén, signifies an increase in the role of the armed forces in the area of public security and other clearly civilian spheres. This worrisome situation is corroborated by the fact that the armed forces, which had 104 units before the signing of the Peace Agreements, still have 95 units deployed three years later. In addition, in areas such as the Ixil triangle, where extremely serious human rights violations occurred in the past, the armed forces maintain the same geographical deployment as during the armed conflict.

76. In view of this situation, the Mission is conducting detailed verification of the deployment in order to identify clearly the functions carried out by each unit. In particular, a distinction needs to be made between permanent national defence functions provided for in the Peace Agreements and temporary functions in support of the security forces, which are authorized by Governmental Agreement 90-96 but must be carried out under the supervision of the Ministry of the Interior and be taken over gradually by the National Civil Police. This verification will be concluded before the end of 1999.

77. The delays in the qualitative implementation of the commitments and the ambiguities of the current deployment demonstrate the urgency of adopting a new military doctrine which establishes clearly the functions to be carried out by the armed forces in a democratic, peaceful society. This will make it possible for the armed forces to abandon the national security doctrine under which they performed essentially counter-insurgency and public order functions. The Government's delay in formulating this new doctrine is preventing the definition of principles, concepts and basic guidelines for the organization, training and use of the Guatemalan armed forces, making it difficult to adapt them to their new role and to deploy them in accordance with the country's political and social reality and the provisions of the Peace Agreements. It is important that the Government, as a signatory to the Peace Agreements, should act on its earlier decision to formulate this new doctrine.

78. It is likewise necessary that the Government implement the decision, announced in May, to comply in 1999 with the commitment to disband the Presidential General Staff and replace it with a civilian unit responsible for the security of the President and Vice-President. The next Government will have to move ahead with a broad agenda which includes adoption of the draft Civic Service Act and the establishment of a Civil Intelligence Department in the Ministry of the Interior.

Legislative branch

79. As a result of the work of the Technical and Legislative Support Committee of the Congress, a preliminary bill comprising an organic law and rules of procedure for the legislative branch, which includes the establishment of a Commission on National, Civil and Public Security and Oversight of State Intelligence Bodies, has been submitted to the Congress with the agreement of all political parties. Unfortunately, that bill, which is in line with the objectives of the Peace Agreements, has not begun to be debated and it is doubtful whether it can be adopted in 1999.

G. Agreement on Constitutional Reforms and the Electoral Regime (A/51/776-S/1997/51, annex I)

Constitutional amendments

80. In my third report I spoke of the lengthy negotiations among political parties concerning the constitutional reform provided for in this Agreement (A/51/776-S/1997/51, annex I). One of the paradoxes of those negotiations was that the amendments proposed in the Peace Agreements were never questioned and that disagreements arose over other proposals formulated by political parties, indigenous organizations and other social sectors, all of which were convinced that, since the Constitution was being amended,

they should take advantage of the opportunity and make other important changes in the country. The difficult negotiations begun in May 1997 culminated in October 1998, when the Congress of the Republic adopted by a two-thirds majority — 50 amendments to the Constitution; the main opposition party abstained. In accordance with constitutional procedures, this reform package was submitted to the people for ratification in a referendum held on 16 May 1999. Although the vast majority of political forces — including the main opposition party, which joined the consensus in April 1999 — came out in favour of the reform, the outcome of the referendum was negative and a high percentage of voters abstained. The referendum results revealed a serious division in the country: in municipalities where indigenous people were in the majority, people voted "yes" to the reform, whereas in other municipalities the majority voted "no".

81. This outcome may be due to a variety of factors. There are structural problems, such as lack of participation and shortcomings in the Elections Act, added to which State agencies were prevented from promoting the reform. There are also political realities, such as the fact that a good part of the urban and non-indigenous population do not feel that the proposals regarding multiculturalism or the reform of the armed forces have any thing to do with them, that a small minority spent considerable sums of money to ward off reforms which they perceived as constituting an unacceptable risk. Other circumstantial reasons also played a part: for example, there were successive delays in the consideration and adoption of the amendments and, in the end, the referendum was held during the Government's final year in power, the year in which general elections were to be held. This does not diminish the responsibility of the political parties, all of which — with the exception of the main opposition party — kept a very low profile during the campaign in favour of the constitutional reform; this contrasted with their publicly stated commitment to the reform and the Peace Agreements.

82. The failure to ratify the reform also raises serious legal difficulties as regards the alteration of the mandate of the armed forces, the reform of the career judicial service and official recognition of indigenous languages. In all other respects the commitments set forth in the Peace Agreements can be implemented in the context of the present Constitution. The decisive element, therefore, is the political assessment made by the country's main political and social forces. Sectors opposed to the peace agenda maintained that the failure of the reform left the Agreements — and the institutions arising therefrom — without any political or legal basis. Sectors committed to the reform process maintained, on the contrary, that the most serious obstacles could and should be overcome by a variety of means, including rulings of the Constitutional Court, secondary legislation and administrative means.

83. From a political standpoint, the events of recent months indicate that there is a growing conviction among the main political parties and many elements of civil society that the outcome of the referendum has not diminished the legitimacy and validity of the main goals of the Peace Agreements. Indeed, the Congress of the Republic is discussing bills whose purpose is to move ahead with the professionalization of the career judicial service, and the executive branch, in recognition of the particular vulnerability of indigenous women and the discrimination they face, approved the establishment of the Office for the Defence of Indigenous Women's Rights. In other words, the process of implementing the Peace Agreements continues and will gather strength as long as the desire for reform in such areas as justice, public security, the role of the armed forces, inter-ethnic relations and taxation persists.

Electoral system

84. In my third report, I urged all political parties, particularly the Government party, to expedite adoption of the bill containing the proposed amendments to the Elections and Political Parties Act, which had been submitted by the Supreme Electoral Tribunal on the basis of the broad agreement reached within the Electoral Reform Commission. It is unfortunate that the bill did not prosper and that the first elections to follow the signing of the Peace Agreements will not be held in a legal framework more conducive to public participation. At the same time, it is encouraging that the main political parties and the Supreme Electoral Tribunal have agreed that the bill must be taken up again after the general elections of November 1999. Without waiting for an analysis of the electoral process, one of the conclusions that can be drawn from verification of the referendum is, without a doubt, that there is an urgent need to amend the existing Elections and Political Parties Act so as to permit greater democratization.

H. Agreement on the Basis for the Legal Integration of the Unidad Revolucionaria Nacional Guatemalteca (URNG)

85. This Agreement (A/51/776-S/1997/51, annex II) provided for the conversion of URNG into a political party. The change took place in November 1998, after completion of all the legal steps, and was an important event for the

peace process. Nevertheless, although the launching of most of the subprogrammes for the initial integration of demobilized combatants has had a positive impact, the integration process as a whole is still weak. More than one third of demobilized combatants have been unable to start their integration in production because the funds pledged by the international community for implementation of the project to support the reintegration of former combatants were not selected on schedule, and another third have been unable to do so because of delays in the implementation of production projects for the uprooted population, in whose communities a significant number of demobilized combatants were integrated. Added to this weakness are other factors, such as the difficulties of integration in the workforce and the limited progress made in other peace agreements linked to such integration. This is having an adverse impact on the process as a whole and giving rise to much discontent among the demobilized population; the latter's situation is deteriorating steadily and urgent measures must be taken to deal with it.

86. The six-month extension of the mandate of the Special Integration Commission ended on 3 November 1998 and the Commission submitted a plan of operations establishing the main goals and activities to be pursued in the definitive integration phase and the action to be taken to deal with outstanding aspects of the initial integration. It also established a follow-up mechanism known as the Coordinating Team. The Guillermo Toriello Foundation has played a fundamental role in both phases of the integration process and is essential to its continuity.

87. Regarding the outstanding aspects of the initial integration phase, progress has been made on the project for integration of some demobilized combatants in production, and the subprogramme on legal assistance has been started. The integration of demobilized combatants in the workforce presents serious difficulties in both the public and the private sector. Although this is a problem that affects the Guatemalan population as a whole, especially in rural areas, in the case of demobilized combatants it is aggravated by the lack of training and by some signs of discrimination. This requires that efforts be made to identify mechanisms to strengthen the training of demobilized combatants with a view to their further specialization.

88. Although the subprogramme for disabled combatants received a strong push in the early months of 1999, it is still well behind schedule. Based on an evaluation submitted following several months of data collection, the national authorities became involved in the design of programmes to benefit all those disabled by the armed conflict. The priority nature and vulnerability of this population, who were affected directly by the conflict, demands prompt implementation of the comprehensive plan agreed to by representatives of the affected sectors (URNG, armed forces and civil society). The Government made a commitment to support the subprogramme for exhuming the bodies of URNG members killed in combat; this, too, is running behind schedule.

89. Progress is being made on elements of the definitive integration phase which are covered in the coordinating team's operating plan and which are the responsibility of a variety of national authorities. These include education, settlement of land disputes and regularization of title to land and a number of housing and infrastructure projects for four groups of demobilized combatants, three of them located on estates purchased through the Land Trust Fund. The greatest difficulties — for reasons already mentioned — are being encountered in the area of integration in the workforce and in production. Particular attention must be paid to the scattered groups of demobilized combatants, accounting for some two thirds of all demobilized combatants, who have not benefited from any production project to date. The mechanisms for approving and making available funds from the international community must be streamlined and made more flexible. The production projects already implemented benefit a small number of demobilized combatants and make a limited contribution to the family economy; additional efforts will have to be made in order for these projects to become sustainable. Accordingly, it is necessary to ensure that technical and credit assistance is provided by national agencies, as envisaged in the operating plan.

90. In order to create institutionalized mechanisms for solving the housing problem, CTEAR and the coordinating team submitted to FOGUAVI a proposed agreement for drawing up a joint programme which would cover some 10,000 applications in five years. While no official response had been received at the time of drafting this report, it appears that the authorization of budgetary funds to meet the needs of 861 families for permanent housing is imminent.

91. In addition to surmounting these difficulties in order to strengthen the fragile process of sustainable integration, efforts will have to be made to strengthen the Guillermo Toriello Foundation both at the regional level, in terms of its links with local bodies, and at the technical level in terms of effective project design and implementation. It is also important to ensure the continuation of the coordinating team so as to guarantee the transfer of responsibilities to Government institutions and so that definitive reintegration is envisaged in the strategies, plans and budgets of those institutions.

III. Final observations

92. Three years have since elapsed since the signing of the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II). This year, 1999, is also the last year in office of the Government which signed the majority of the Peace Agreements. The general elections will bring about changes in the executive branch, the Legislative Assembly and local governments. This poses the challenge of ensuring the continuation of the peace process in terms not only of consolidating what has been done over the past three years but also of implementing the outstanding agenda. The present report seeks to present briefly all the measures which the present Government will have to implement before the end of the year and which the new authorities will have to implement starting in the year 2000. As the Follow-up Commission pointed out, the outstanding agenda includes electoral, fiscal, judicial and military reforms. As can be seen from the present report, labour issues, housing, sustainable reintegration of the uprooted population and demobilized combatants, compensation and national reconciliation also deserve particular attention. As regards education and health, in addition to the twin challenges of continuing to expand coverage and ensure that the amount of money actually spent is no less than the amount budgeted, there is the challenge of making sure that the new schemes for the provision of services are sustainable and that the quality of services is improved, *inter alia* by ensuring that they are better tailored to the multicultural and multilingual characteristics of Guatemalan society. In all areas there is a strong need to mobilize more resources for democratization and social development.

93. The failure of the May 1999 referendum to ratify the constitutional reform raised questions, both nationally and internationally, about the continuity of the peace process. As has been pointed out in this report, this failure has been a setback for the process of change in Guatemala but it has not stopped the process. The positions taken by the main political parties show that the peace agenda remains valid and in force. That is also the message of the Guatemalan conference of bishops in the run-up to the 1999 general elections, affirming that the Peace Agreements remain the broad national agenda for achieving a better future for all. In October 1999, during his visit to Guatemala, my Chef de Cabinet, Mr. Iqbal Riza, noted that there is a broad consensus among very diverse sectors of Guatemalan society as to the need to continue and expand implementation of the various aspects of the peace agenda. The fact that nearly all the political parties have publicly supported the extension of the Mission's mandate into the year 2000 is also an encouraging sign.

94. The events of recent months have shown that there is a willingness to move towards achievement of the goals of the Peace Agreements. At the same time, it is important that the new phase of the process, which will begin in January 2000, should take into account the lessons of recent years, both positive and negative. One such lesson is the need to foster greater public awareness of and identification with the process. The setbacks suffered in February 1998, with the rejection of the Act on a Single Property Tax, and in May 1999, with the outcome of the referendum, demonstrate that the deep-seated resistance with which those who benefit from the status quo greet any attempts to bring about change is fuelled by the absence of tangible, visible effects of the peace process. Since the process is a medium- and long-term one, it cannot hope to eradicate in a matter of months the social debt that has built up in the country over years or to meet all the population's expectations. Precisely for that reason, I repeat what I said in my earlier reports (A/52/554 and A/52/757), namely, that it is essential, in the implementation of the peace agreements, to pay special attention to those areas where the social debt is most pressing; to make real efforts to promote a proper understanding of the implementation process among all Guatemalans; and to increase the opportunities for participation at various levels, so that members of the public will identify more closely with the process. The challenges of achieving greater political, economic, social and cultural equity in Guatemala will be hard to meet without the involvement of a majority of the population which stands to benefit. In this regard, the efforts made by the Follow-up Commission to involve State and non-State sectors at the departmental level in the implementation of the Agreements are to be commended and are an important guarantee for the continuity of the peace process.

95. In March 2000, it will be 10 years since the United Nations became directly involved in the Guatemalan peace process, an involvement which began with the appointment of a representative of the Secretary-General as Observer of the activities to be carried out under the Basic Agreement for the Search for Peace by Political Means, signed in Oslo on 29 March 1990 (A/54/706-S/21931, annex III). This involvement was a response to the expressed wishes of the parties and to the commitment of the international community as a whole to the Central American peace process. Without minimizing the importance of the cessation of the armed conflict, full implementation of the Peace Agreements will give Guatemala an opportunity to join fully in the global movement towards inclusive democracy,

equitable development and respect for human rights and cultural differences. These are the values which the United Nations has a mandate to protect and promote and this is the meaning of the support, whether in the form of verification, good offices or technical cooperation, which the United Nations system will continue to provide to the peace-building process in Guatemala.